

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

 Judgment Creditor,

v.

STEFAN LUMIERE,

 Judgment Debtor,

and

LAW OFFICES OF LOUIS R. ROSENTHAL,
and JPMORGAN JPMS, LLC,

 Garnishees.

16 CR 483 (JSR)

**FINAL ORDER
OF GARNISHMENT**

WHEREAS the Court entered judgment against the defendant-judgment debtor, Stefan Lumiere, in the amount of \$1,000,300.00 on June 14, 2017;

WHEREAS Lumiere has made payments totaling \$3,750.00, and the outstanding balance owed on his fine is \$996,550.00 as of December 28, 2021;

WHEREAS, pursuant to 18 U.S.C. § 3613, notwithstanding any other federal or state law, the fine is a lien on all of Lumiere's property and rights to property;

WHEREAS, pursuant to the Federal Debt Collection Procedure Act, ("FDCPA"), 28 U.S.C. § 3205, the Government sought, obtained, and served writs of garnishment to the Law Offices of Louis R. Rosenthal and JPMorgan JPMS, LLC ("the garnishees") for substantial nonexempt property belonging to or due Lumiere;

WHEREAS the Government served Lumiere with the garnishment process, including the exclusive and limited exemptions available to criminal judgment debtors under 18 U.S.C. § 3613;

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WHEREAS garnishee Rosenthal answered the writ stating that he holds \$51,644.94 in escrow for Lumiere as the net proceeds from the sale of his apartment;

WHEREAS garnishee JPMorgan JPMS, LLC answered the writ stating that it holds approximately \$413,929, subject to market fluctuation, in two retirement accounts and two checking accounts for Lumiere;

WHEREAS Lumiere has a substantial nonexempt interest in the funds held by the garnishees, to which the criminal judgment lien has attached under 18 U.S.C. § 3613, and these funds are subject to garnishment pursuant to 28 U.S.C. § 3205;

WHEREAS the Court held a hearing on October 1, 2021, and denied Lumiere's motion to quash the writs of garnishment;

WHEREAS Lumiere has since agreed to apply the full liquidated value of the net sale proceeds from his apartment and his retirement funds held by the garnishees toward the balance of his fine; and

WHEREAS, provided that Lumiere satisfies the unpaid fine balance by April 15, 2022, the Government agrees to forgo the imposition of the FDCPA's 10% litigation surcharge in the amount of \$99,675.00, however, if the Clerk of Court has not received payments totaling \$996,750.00 to satisfy the unpaid fine by April 15, 2022, the Government may impose and collect that surcharge in accordance with 28 U.S.C. § 3011;

IT IS HEREBY ORDERED that garnishee ROSENTHAL shall immediately pay to the Clerk of Court the \$51,644.94 in net proceeds held in escrow from the sale of Lumiere's apartment;

IT IS FURTHER ORDERED that, no sooner than January 1, 2022, and no later than March 1, 2022, the Government and Lumiere will serve this order on garnishee JPMorgan JPMS, LLC on a mutually selected date in an effort to maximize the market value, and upon receipt of this

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order, the garnishee shall immediately liquidate securities in Lumiere's retirement account numbers ending in 8045 and 8046 as needed to submit the full liquidated value of each account, less any deductions required by law, with no withdrawal penalty, to the Clerk of Court in partial satisfaction of Lumiere's judgment. *See* 18 U.S.C. § 3613; *United States v. Irving*, 4452 F.3d 110, 126 (2d Cir. 2006) (the government is authorized to garnish retirement funds to satisfy a criminal debt); and *United States v. Novak*, 476 F.3d 1041, 1062 (9th Cir. 2006) (involuntary court-ordered distributions from retirement accounts to pay criminal judgments are not subject to additional tax or penalty for early withdrawal). Garnishee JPMorgan JPMS, LLC shall release Lumiere's non-retirement account numbers ending in 3343 (brokerage), 5065 (checking), 2138 (safe deposit box), and 4840 (checking) from further restriction upon receipt of this order.

Payments should be made by cashier's check, money order, or certified funds to "Clerk of Court" with "No. 16 CR 483" written on the face of each payment and mailed to the United States District Court, 500 Pearl Street, Room 120, New York, New York 10007, Attn: Cashier.

SO ORDERED.

Date: New York, NY
December 1, 2021
1-3-22



JED S. RAKOFF, U.S.D.J.